

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FIRESTONE ART LLC, d/b/a ERIC FIRESTONE,

Plaintiff,

-v-

PHILADELPHIA INDEMNITY INSURANCE  
COMPANY d/b/a Tokio Marine Highland, Fine Art  
Division *et al.*,

Defendants.  
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24 Civ. 3772 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

This case was removed from the Supreme Court of the State of New York, County of New York on May 16, 2024. Dkt. 1. The docket does not reflect whether Defendants have been served. Federal Rule of Civil Procedure 4(m)’s “[90]-day period for service begins to run on the date of removal.” *Kogan v. Facebook, Inc.*, 334 F.R.D. 393, 399 n.3 (S.D.N.Y. 2020) (internal quotation marks omitted). Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Nor has Plaintiff requested an extension of time to serve Defendants.


Accordingly, Plaintiff is ordered to file a status letter by August 22, 2024, describing (1) whether service of the summons and Complaint has been made on Defendants, and if not, (2) why good cause exists to excuse Plaintiff’s failure to serve Defendants within the 90-day deadline set by Rule 4(m). *See* Fed. R. Civ. P. 4(m) (“[I]f the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.”). The Court reminds Plaintiff

that “[t]o establish good case a plaintiff must demonstrate that despite diligent attempts, service could not be made due to exceptional circumstances beyond his or her control.” *Deptula v. Rosen*, 558 F. Supp. 3d 73, 75 (S.D.N.Y. 2021) (internal quotation marks omitted).

Plaintiff must file this letter even if service of the Summons and Complaint is or has already been made on Defendants. If Defendants have been served, Plaintiff must also file proof of service on the docket no later than August 22, 2024. If no such letter is filed, the Court may dismiss the case for failure to prosecute.

SO ORDERED.

Dated: August 16, 2024  
New York, New York

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JOHN P. CRONAN  
United States District Judge